

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054**

In the Matter of)	
)	
AST&Science LLC)	IBFS File Nos. SAT-PDR-20200413-00034,
)	SAT-APL-20200727-00088, and
Petition for Declaratory Ruling Granting)	SAT-APL-20201028-00126
Access to the U.S. Market for a)	
Non-U.S.-Licensed Non-Geostationary)	Call Sign 3065
Orbit Satellite Constellation)	

RESPONSE AND OPPOSITION TO PETITION TO DENY

AST&Science LLC (“AST”), pursuant to Section 25.154(c) of the rules of the Federal Communications Commission (“FCC” or “Commission”),^{1/} files this Response and Opposition to Hughes Network Systems, LLC’s (“Hughes”) late-filed Petition to Deny^{2/} addressing AST’s Petition for Declaratory Ruling, as amended (“PDR”).^{3/} AST seeks authority to allow its Low Earth Orbit (“LEO”) SpaceMobile constellation to operate on V band frequencies in the United States.

Hughes’ filing, like other complaints that it has been making against other satellite operators,^{4/} appears motivated by economic interest aiming to slow the authorizations of

^{1/} 47 C.F.R. § 25.154(c).

^{2/} Petition to Deny of Hughes Network Systems, LLC, IBFS File Nos. SAT-PDR-20200413-00034, SAT-APL-20200727-00088, and SAT-APL-20201028-00126 (filed Oct. 12, 2021) (“Hughes Petition”).

^{3/} AST & Science, Petition for Declaratory Ruling, IBFS File Nos. SAT-PDR-20200413-00034, SAT-APL-20200727-00088, and SAT-APL-20201028-00126.

^{4/} See e.g., *Petition for Reconsideration of Hughes Network Systems, LLC*, IBFS File No. SAT-MOD-20200417-00037 (filed May 27, 2021) (opposing grant of authority to SpaceX notwithstanding lack of standing and previously rejected arguments); *Viasat, Inc., Ex Parte Response to Hughes Network Systems, LLC*, IBFS File No. SAT-PDR-20161115-00120 (Sept. 27, 2018) (“Hughes continues its pattern

potential competitors, which will only serve to hamper innovation. The Commission must deny Hughes' request, as it:

- Is untimely filed and procedurally defective;
- Misconstrues AST's application;
- Misrepresents the FCC's requirements for satellite authorization; and
- Seeks to have the FCC, rather than the marketplace, determine which business plans will succeed.

For the reasons discussed below, the FCC instead should grant AST's request expeditiously, as there is no merit to Hughes' submission.

I. INTRODUCTION

AST requested authority to operate SpaceMobile in the United States on April 13, 2020. AST's non-geostationary satellite orbit ("NGSO") SpaceMobile satellite network will allow terrestrial wireless licensee partners to offer their customers access to mobile broadband service throughout the United States using off-the-shelf, unmodified user equipment such as LTE and 5G mobile phones.^{5/} The SpaceMobile network is a major step towards bridging the digital divide – the Commission's highest priority^{6/} – by allowing Mobile Network Operators ("MNOs") to provide universal broadband access regardless of the availability of terrestrial infrastructure. AST's satellites will bring the benefits of broadband to Americans in geographic areas that remain unserved because the economic use case to bring terrestrial wireless broadband

of attempting to prevent others from making new and innovative uses of FSS spectrum."'). *See also* Rachel Jewett, "Hughes, SpaceX, and Viasat to Compete for Rural Digital Opportunity Fund Subsidies," *Via Satellite* (Oct 14, 2020).

^{5/} PDR at 2.

^{6/} *See* Letter from Acting Chairwoman Jessica Rosenworcel, FCC, to the Honorable Joe Manchin, United States Senate, at 1 (rel. Sept. 10, 2021).

to those areas simply does not exist – whether due to prohibitive costs, low population density, challenging topography, or land use issues.^{7/}

AST amended its application on July 27, 2020 and October 28, 2020.^{8/} While in its July amendment, AST clarified requested frequencies,^{9/} in the October amendment it revised its request, making clear that it only sought authority to operate feeder links in V-band frequencies and did not seek authority to operate in spectrum allocated to terrestrial services.^{10/} AST explained that its MNO partners would be in control over all provision of service to handsets operating on frequencies authorized for service to terrestrial users.^{11/} SpaceMobile will operate on terrestrial spectrum only with the permission and under the direction of a partner licensee.

On October 12, 2021, Hughes filed a Petition to Deny the application of an unrelated party, but also placed that pleading in AST’s application files and stated that it intended its arguments and request to apply to AST as well.^{12/} Because Hughes failed to follow Section 25.142(a) of the Commission’s rules, the Commission should dismiss the Petition, or at best consider it as an informal objection. In any case, the Commission must reject the Petition because it does not contain any specific allegations or facts pertaining to AST, and does not provide any valid reason for the Commission to deny AST’s application. Accordingly, the

^{7/} PDR at 2.

^{8/} See n.3.

^{9/} AST&Science Amendment to Petition for Declaratory Ruling, SAT-APL-20200727-00088, SAT-PDR-20200413-00034, at 6 (July 27, 2020) (“July Amendment”).

^{10/} AST&Science Amendment to Petition for Declaratory Ruling, SAT-APL-20201028-00126, SAT-PDR-20200413-00034 (Oct. 28, 2020) (“October Amendment”).

^{11/} See October Amendment.

^{12/} Hughes Petition at n. 1.

Commission should reject Hughes' Petition and act quickly to grant AST's applications for V band authority.

II. DISCUSSION

A. Hughes' Petition is Untimely And, At Best, Should Be Considered an Informal Objection That Should Be Rejected

The Commission's rules require that petitions to deny an application must be filed within 30 days of the public notice announcing the acceptance for filing of the application or a major amendment, unless the Commission has granted an extension.^{13/} AST's last amendment to its application was accepted for filing on November 6, 2020 – nearly a year ago – which means that any petition to deny the application was due by Monday, December 7, 2020.^{14/} Hughes filed its Petition on October 12, 2021, more than ten months after the public comment period. Therefore, Hughes' Petition is untimely.

At best, under its rules the Commission may consider this late-filed petition as an informal objection. The Commission sometimes classifies a pleading – including petitions to deny – as an “informal objection” when (i) it is not filed in accordance with Section 25.142(a), (ii) if the 30 day public notice period does not apply, or (iii) the objection relates to an application grant and does not conform to Section 25.142(a).^{15/} Here, Hughes does not even proffer any reason for its late filing and does not raise any new facts not available to it last

^{13/} See 47 C.F.R. § 25.154(a)(2).

^{14/} Thirty days from November 6, 2020 is Sunday, December 6, 2020. The Commission's rules indicate that if a deadline falls on a weekend or a holiday, then the due date will fall on the next business day. In this case, that date would be Monday, December 7, 2020. See 47 C.F.R. § 1.4. There was no extension of this filing period.

^{15/} See 47 C.F.R. § 25.154.

December. Given this, it would be inappropriate for the Commission to consider the filing at all, even as an informal objection.

B. Hughes' Petition Should Be Denied for Failing to Meet The Requirements of Section 25.154(a)(4)

Hughes also misconstrues AST's request for authorization, and fails to meet the requirements of a Section 25.154(a)(4) showing. Section 25.154(a)(4) requires a petition to deny to "contain specific allegations of fact . . . to support the specific relief requested."^{16/} Hughes' Petition does not contain *any* facts related to AST.^{17/} Hughes only briefly mentions AST in a single footnote and vaguely states that "[t]hese considerations also apply to [AST's applications.]" Hughes apparently is referring to its concerns about satellite operators' access spectrum.^{18/}

AST's application before the Commission is for V band authorization and not authority to operate on terrestrial frequencies. AST requires this V band authority, which will be used for feeder links, in the United States because it is a U.S. company that will conduct satellite operations from its U.S. facilities. AST has made clear that it does not intend to provide service on terrestrial frequencies absent the agreement and direction of a terrestrial license, which would obtain such authority.^{19/} Therefore, on its face, the Petition fails to meet the requirements of Section 25.154(a)(4). None of Hughes' arguments applies to AST. Because Hughes did not

^{16/} 47 C.F.R. § 25.154(a)(4).

^{17/} See Hughes Petition at 1 n.1.

^{18/} Hughes Petition at 1 and 2.

^{19/} See PDR at 2.

provide any facts or allegations that relate to AST or its applications, the Commission should deny Hughes' Petition.

C. Hughes Petition Is Improperly Motivated By Its Competitive Interest

It is patently obvious that Hughes placed its Petition in AST's file seeking to delay or deny the processing of its application because it views AST as a potential competitor. Hughes' practice appears to be to consistently oppose satellite operators that may compete with its businesses, such as SpaceX, ViaSat, and now AST. Hughes' argument here apparently is that a satellite operator may not obtain FCC authority to conduct operations of its system so long as there may be other additional Commission decisions that could or may be required for other aspects of the business plan at some point in time. This is absurd, and is wholly inconsistent with the Commission's requirements for granting satellite authority.^{20/} The FCC has never required that every element of a licensee's business plan be ready for implementation before granting some aspects of the regulatory relief required. Indeed, in the U.S. parties must request earth station authority separately from satellite authority.^{21/}

Here, AST has a legitimate business interest in using the V band for its operations, even before service to any U.S. customer begins. There are no legitimate complaints about AST in Hughes' filing, and the Commission must reject it wholesale and allow parties to compete in the

^{20/} 47 C.F.R. Part 25, Subpart B.

^{21/} *Further Streamlining Part 25 Rules Governing Satellite Services*, Report and Order, 35 FCC Rcd 13285 (Nov. 19, 2020) ("The Commission currently issues separate licenses for earth stations and space stations in a satellite system based on the different application requirements in part 25 of the Commission's rules that govern satellites services.").

marketplace rather than burden the FCC with baseless complaints that attempt to stifle competition.

III. CONCLUSION

AST meets all requirements for obtaining its requested V band authority. For the foregoing reasons, the Commission must deny Hughes' Petition, and move forward to grant AST's application expeditiously.

Respectfully submitted,

/s/ Laura Stefani

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CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2021, the foregoing Response and Opposition to Petition to Deny was served to the following, *via* electronic mail, pursuant to permission granted under Section 1.47(d):

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